

(Purpose: To prohibit the use of funds relating to a certain definition)

At the appropriate place in title V, insert the following:

SEC. 5 \_\_\_\_\_. None of the funds made available in this or any other Act making appropriations for Energy and Water Development for any fiscal year may be used by the Corps of Engineers to develop, adopt, implement, administer, or enforce any change to the regulations and guidance in effect on October 1, 2012, pertaining to the definition of waters under the jurisdiction of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including the provisions of the rules dated November 13, 1986, and August 25, 1993, relating to such jurisdiction, and the guidance documents dated January 15, 2003, and December 2, 2008, relating to such jurisdiction.

Mr. ALEXANDER. Mr. President, I thank Senators for their cooperation today. As I indicated earlier, Senator FEINSTEIN and I have been in touch with every Senate office over the last few weeks, asking for advice, policy, and amendments. Senators have been terrific in getting that to us. For example, there is Senator SCHATZ' amendment. He offered and withdrew it in committee. We worked with him and were able to adopt it once it came to the floor. That is typical of what has happened.

I would judge that about 83 or 84 Senators have contributed policy to this bill. There are really not many more amendments that will be offered. But we will have this one amendment, at least, tomorrow morning at 11:45. Then, the last vote will be at about 2:00 p.m., tomorrow after lunch. There may be other votes before that.

I would ask, as I did earlier, that Senators and their staffs get any other amendments that we do not know about to us by 1 o'clock tomorrow. Then, perhaps we can come to an agreement about how to proceed from there to the end of the bill, maybe even without the necessity of cloture.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Mr. President, I wanted to reassure the Senate and thank Chairman ALEXANDER for making sure that this legislation has \$285 million in it for advanced computing. It also includes the Kirk language to ensure that the United States is home to the No. 1 supercomputer in the world.

Today, China has the fastest computer in the world. It is called the Tianhe-2. It is clocked at 33.8 petaflops per second. Computers in the U.S. National Labs should soon topple China. It is a priority issue that I share with Chairman ALEXANDER.

The Titan computer, which is now at Oak Ridge National Laboratory in Tennessee, is ranked at No. 2 in the world. At Argonne National Laboratory in Illinois, we are working on a computer to be upgraded which will soon be No. 1 in the world. It will clock in at 180 petaflops per second. That is 18 times faster than the current computer that is at Argonne called Mira and three times faster than China's top computer today.

With that, supercomputing is essential for American competitiveness in the future. I think it is essential that we pass this legislation to make sure that we are all No. 1 in supercomputing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Illinois for his advocacy of keeping America No. 1 in the world in supercomputers and exascale computing. He has a special knowledge of that because of his intimate knowledge of Argonne National Laboratory in Illinois. I know something about it because of the work at the Oak Ridge National Laboratory in Tennessee.

The Obama administration has consistently funded exascale and supercomputing, and we have consistently supported that recommendation of funding. We have been able to do that for the last 4 or 5 years, Senator FEINSTEIN and I. There has been no more vigorous advocate to cause our country to be No. 1 in supercomputing than Senator KIRK of Illinois. I thank him for his leadership and his contributions to this bill.

#### MORNING BUSINESS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to speak for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, I am here for the 134th time to urge the Senate to wake up to the growing threat of global climate change. I am afraid my chart here is getting a little bit beat up after all of these speeches. I hope we can begin to make progress.

But we continue here in this body to be besieged by persistent and meretricious denial. Of course, the polluters want us to do nothing. They are so happy to offload to everybody else the costs of the harm from fossil fuels: the cost of heat waves, the cost of sea level rise, the cost of ocean acidification, the cost of dying forests, and the rest of it. They are running a very profitable "we keep the profits, you bear the costs" racket. They spend rivers of money on lobbying and on politics and on a complex PR machine that fills the airwaves with sound bites of cooked-up, paid-for doubt about climate change.

I believe the worst of them actually know better, but they do it any way. In this turbulence, the Wall Street Jour-

nal editorial page regularly sides with the rightwing climate denial operations. So, naturally, they have challenged my call for an appropriate inquiry into whether the fossil fuel industry's decades long and purposeful campaign of misinformation has run afoul of Federal civil racketeering laws.

Now, it is very hard for them to argue that the fossil fuel industry should be exempt from fraud laws. It is very hard for them to argue that the tobacco lawsuit years ago was ill funded, although certainly they tried right up until the government won the case. So they turn, instead, to invention. The Wall Street Journal repeatedly and falsely has accused me of seeking to punish anyone who rejects the scientific evidence of climate change. That is, of course, a crock. I never said anything close to that, but that does not stop them.

In fact, this line of counterattacks fits the Journal's playbook for defending polluting industries. The Wall Street Journal's editorial page has a record on acid rain, on the ozone layer, and now on climate change. There is a pattern. They deny the science, they question the motives of those who call for change, and they exaggerate the costs of taking action.

At all costs, they protect the polluting industry. When the Journal is wrong, as they have repeatedly been proven to be, they keep at it, over and over. In the 1970s, scientists first warned that chlorofluorocarbons could erode the ozone layer of the Earth's stratosphere, and that would increase human exposure to cancer-causing ultraviolet rays.

The Wall Street Journal editorial page doggedly fought back against the science, questioning it, and attacking any regulation of the CFCs.

In at least eight editorials between 1976 and 1992, the Wall Street Journal proclaimed that the connection between CFCs and ozone depletion "is only a theory and will remain only that until further efforts are made to test its validity in the atmosphere itself." They called the scientific evidence "scanty" and "premature," suggested that the ozone layer "may even be increasing," insinuated that "it is simply not clear to us that real science drives policy in this area," and warned of "a dramatic increase in air-conditioning and refrigeration costs," with "some \$1.52 billion in foregone profits and product-change expenses" as well as 8,700 jobs lost. Those are all actual quotes from the ed page.

Well, back then Americans listened to the science. Congress acted, the ozone layer and the public's health were protected, and the economy prospered. All those terrible costs that the Journal predicted, according to the EPA's 1999 progress report, "Every dollar invested in ozone protection provide[d] \$20 of societal health benefits in the United States"—\$1 spent, \$20 saved.

When scientists began reporting that acid rain was falling across our Northeastern States, out came the Wall Street Journal again saying the “data are not conclusive and more studies are needed”; arguing that “nature, not industry, is the primary source of acid rain”; claiming “the scientific case for acid rain is dying”; and charging that “politics, not nature, is the primary force driving the theory’s biggest boosters.”

Again, those are all actual quotes, even as President Reagan’s own scientific panel said that inaction would risk “irreversible damage,” which brings us to the Wall Street Journal on climate change.

In June 1993, they claimed “growing evidence that global warming just isn’t happening.”

September 1999, they reported that “serious scientists” call global warming “one of the greatest hoaxes of all time.”

June 2005, they asserted that the link between fossil fuels and global warming had “become even more doubtful.”

February 2010, they said: “We think the science is still disputable.”

June 2011, they called global warming a “fad-scare.”

December 2011, an editorial said that the global warming debate requires “more definitive evidence.”

As recently as last January, the page called extreme weather “business as usual,” while still erroneously clinging to the “hiatus” argument.

Just this week they published an editorial that any link people have talked about between climate change and national security threats—something we hear from our armed services, from our intelligence services—that all is “silliness,” to use the word of the author they quoted.

The polluter playbook also produced the usual Journal warnings about costs, that “a high CO<sub>2</sub> tax would reduce world GDP a staggering 12.9 percent in 2100—the equivalent of \$40 trillion a year,” making “the world poorer than it otherwise would be”; about motivations, that this was all really motivated by what they called “political actors” seeking to gain economic control; and about the science, claiming that “global service temperatures have remained essentially flat.”

This is my particular favorite. A December 2009 Wall Street Journal claimed that climate scientists were suspect because they “have been on the receiving end of climate change-related funding,” the Journal continues “so all of them must believe in the reality (and catastrophic imminence) of global warming just as a priest must believe in the existence of God.”

Set aside their suggestion that funding is why priests believe in God. Look at what they are saying about scientific funding.

If the Wall Street Journal can make it a conflict of interest for scientists to be on the receiving end of scientific funding related to their field of in-

quiry, that covers virtually all science. That would make virtually all science not discovered by accident a conflict of interest. That is a great trick, because if science itself is a conflict of interest, that neatly moots the real conflict of interest of the masquerade talk-show science produced by the polluting industry’s PR machinery. And there is such machinery, according to numerous investigative books, journalists’ reporting, and academic studies.

Look at the academic work of Professor Robert Brulle of Drexel University, Professor Riley Dunlap of Oklahoma State University, and Justin Farrell of Yale University, among others.

Look at the investigative works of Naomi Oreskes and Erik Conway in their book “Merchants of Doubt” or David Michaels’ book “Doubt is their Product” and Gerald Markowitz and David Rosner’s book “Deceit and Denial.” Look at Jeff Nesbit’s new book “Poison Tea.”

Look at the journalistic work of Neela Banerjee, Lisa Song, David Hasemyer, and John Cushman, Jr., in InsideClimate News, which is evidently now shortlisted for a Pulitzer Prize looking at what ExxonMobil knew about climate change versus the things that it chose to tell the public. Look at the parallel probe by the Energy and Environment Fellowship Project at the Columbia Journalism School, published in the Los Angeles Times, which brings us to the Journal’s question: “Why even raise the possibility of RICO suits—and suggest it to the Justice Department—if Mr. WHITEHOUSE’s goal isn’t to punish those who disagree with him on climate?”

One reason is that a RICO suit was won by the U.S. Department of Justice under the Clinton and Bush administrations against the tobacco industry. So there is this little matter of this being the law. The Journal never seems to mention the fact that the government won the civil case against the tobacco industry.

Before the RICO lawsuit was won by the Department of Justice, the Wall Street Journal editorial page had worked it over pretty well, calling it “abuse,” “hypocrisy,” and “a shake-down.” So I understand that they don’t like that fact, but it is now a fact that the Department won that case.

A second reason is that if there is indeed a core of deliberate fraud at the heart of the climate denial enterprise, no industry should be too big to dodge the legal consequences. Most of the writers I mentioned noted themselves similarities between the tobacco fraud scheme and the climate denial operation—as has Sharon Eubanks, the lawyer who won the tobacco lawsuit for the Department of Justice—and, so it seems, have now more than a dozen State attorneys general who are looking at Big Oil and coal for misleading statements, which leads me to my last point.

Note the breadth of the Wall Street Journal editorial page’s language that

I want to “punish those who disagree with [me] on climate,” but that is just false. As the RICO case itself shows—the tobacco RICO case that is the model we would like to have the Department look at—people who disagree with me on climate change would no more be the targets of such an investigation than smokers or people who disagreed with the Surgeon General about tobacco’s dangers were targets of the tobacco case. Those folks may very well have been victims of the tobacco industry’s fraud. They may be the dupes.

For the record, fraud investigations focus on those who lie, knowing that they are lying, intending to fool others and doing it for gain, for money. Even fossil fuel companies should not be too big to answer for that conduct if it were proven in court.

Why would the Wall Street Journal editorial page and other rightwing editorialists be trying to saddle me with an argument I am not making? Well, one obvious reason would be because they don’t have a good response to the one I am making. Let’s say, if they were operating as a shill for the industry here and emitting industry propaganda, they would be providing their industry clients a very valuable service of misdirection. Like squid ink released to create a helpful distraction, an imaginary argument to quarrel with gives them an advantage. As I said, it is going to be tough to convince people that the fossil industry should be too big to sue, no matter what they did or that it should deserve different rules under the law than the tobacco industry.

If you are going to lose those arguments, you have to make another one, and they invented that I want to jail people—including contrarian scientists and skeptics.

This is not rational argument. This is not the kind of rational, fact-based argument that a court would demand. It is defensive behavior on behalf of a creature that feels itself threatened and desperately wants to avoid that fair courtroom forum, a forum where the evidence matters, where the truth is required, and where the industry doesn’t get to put in the fix.

Everybody should know I take climate change very seriously. Rhode Island is the Ocean State. Just this week we had major news stories in our statewide paper about drowning sea coast marshes, endangered historic buildings, and ocean fisheries in upheaval, all from climate change. This is the first one.

“Drowning marshes: Buying time against the tide, they pour sand in an uphill fight.”

As the climate warms, causing the ice caps to melt, currents to slow and ocean waters to expand, sea levels are rising at a rate that could eventually wipe out many of Rhode Island’s salt marshes.

Just days later:

“Newport sees the firsthand threat of climate change.”

But the confluence of rising seas and more extreme storms caused by climate change could present an insurmountable challenge for those trying to protect this and thousands of other historical structures near the coast.

Then, finally:  
“Is commercial fishing sustainable? An industry at crossroads.”

John Bullard, regional administrator with NOAA’s Northeast Regional Office, said that he believes commercial fishing can be sustainable but a number of issues, including climate change, need attention for that to happen.

I represent a State whose fishing industry depends on doing something about climate change, whose historic buildings are at risk of being flooded and lost by the insurmountable problem of climate change, and whose salt marshes, which are very important to our State, are rising at a rate that could eventually wipe them out.

Am I supposed to ignore that? Am I supposed to ignore this? It is not going to happen.

I am proud to stand with our leading research institutions and scientists around the country, our national security experts, corporations such as Apple, Google, Mars, and National Grid. I am proud to stand with President Obama and Pope Francis, who both agree about the seriousness of climate change.

If the polluter machine wants to score more ink, so be it. I cannot stop them, but I am not going anywhere. My State is in the crosshairs. This is one of those fights worth having.

I yield the floor.  
The PRESIDING OFFICER. The Senator from Nebraska.

ATVM LOAN PROGRAM  
AMENDMENT

Mrs. FISCHER. Mr. President, I am thankful the Senate is taking up the appropriations bills. The appropriations process is the only way citizens can truly hold their elected representatives accountable. It also allows the American people to see just what the priorities are for the Senate.

Through my votes upon appropriations bills, I have to decide which government programs to prioritize and which government programs need to be cut. These are tough choices, but Nebraskans sent me to Washington to make these hard decisions.

Again, I am hopeful that the Senate is taking up these bills and that we can make important spending decisions on

behalf of the American people. That is why I am proud to join Senators COATS, TOOMEY, and FLAKE to submit an amendment that targets what I see is overspending in the Energy and Water appropriations bill.

This amendment would wind down the Department of Energy’s troubled Advanced Technology Vehicles Manufacturing Loan Program. The ATVM Program was designed to provide loans for businesses that produce fuel-efficient, advanced-technology vehicles and components in the United States. The program was created in 2007. In 2009, Congress appropriated \$7.5 billion in subsidies to cover \$25 billion in loans authorized under that program.

Unfortunately, as Senator COATS and Senator TOOMEY have pointed out, this program has struggled for many years. The record speaks for itself. Take Fisker Automotive as an example. In April of 2010, Fisker received a loan through the ATVM program for the purpose of producing two lines of plug-in hybrid vehicles at its plant in Wilmington, DE. In 2011, because Fisker was not meeting its performance targets, the DOE suspended its original loan of \$529 million.

Unfortunately, \$192 million in taxpayer dollars had already been loaned to the company. Fisker halted operations, and they filed for bankruptcy in November of 2013. The company’s ATVM loan was sold at auction for \$25 million and the DOE was able to recoup \$28 million from an escrow account. However, this loan still resulted in a \$139-million loss for taxpayers.

In February of 2014, Fisker’s assets were auctioned to a Chinese manufacturer, Wanxiang, through the resulting bankruptcy proceedings. This was one of the many failures resulting from the ATVM Program.

In 2013, a Government Accountability Office report found few auto manufacturers and program applicants willing to participate in the program due to high costs and the limited benefits. As a result, the Secretary of Energy announced a number of changes to the ATVM Program in April of 2014. Not a single new loan has been approved since the announcement of these revisions.

This program is a clear example of waste. It reveals the dangers of allowing our government to pick winners and losers in the private sector. That is why I am here today to join Senators COATS and TOOMEY and FLAKE in offering an amendment that would prohibit

new loan applications from being reviewed if they are not submitted by the date of this bill’s enactment. Furthermore, our amendment would prohibit any loan credit subsidies after the end of fiscal year 2020. Through these provisions, we can responsibly wind down a very ineffective program.

Our national debt continues to grow, and it now exceeds \$19 trillion. According to the March 2016 report of the Congressional Budget Office, annual deficits will exceed \$1 trillion in 2022 and every year thereafter. This makes the need for commonsense provisions like ours all the more urgent. We simply cannot afford to continue spending money on programs that are not effective.

I urge my colleagues to vote for this sensible amendment when it is brought up for a vote.

Mr. President, I yield the floor.  
I suggest the absence of a quorum.  
The PRESIDING OFFICER (Mr. PERDUE). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mrs. FISCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET COMMITTEE COST  
ESTIMATE—S. 2804

Mr. ENZI. Mr. President, I offer for the RECORD the Budget Committee’s cost estimate of S. 2804, the Energy and Water Development Appropriations Act for fiscal year 2017.

The reported measure provides \$37.5 billion in discretionary budget authority for fiscal year 2017, which will result in new outlays of \$21.9 billion. When outlays from prior-year budget authority are taken into account, non-emergency discretionary outlays for the bill will total \$37.6 billion.

The reported bill matches its section 302(b) allocation for budget authority for both the security and nonsecurity categories and is below the 302(b) allocation for outlays by \$1 million.

The bill is not subject to any budget points of order.

Mr. President, I ask unanimous consent to have printed in the RECORD the table displaying the Budget Committee scoring of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2804, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 2017: SPENDING COMPARISONS—SENATE-REPORTED BILL

(Fiscal year 2017, \$ millions)

	Budget authority		Outlays	
	Security	Nonsecurity	Total	Total
Senate-reported bill .....	20,023	17,514	37,537	37,560
Senate 302(b) allocation .....	20,023	17,514	37,537	37,561
2016 Enacted .....	18,860	18,325	37,185	37,216
President’s request .....	19,343	17,933	37,276	36,340
SENATE-REPORTED BILL COMPARED TO:				
Senate 302(b) allocation .....	0	0	0	—1
2016 Enacted .....	1,163	—811	352	344